



## Administration & Finance Committee

Thursday, August 20, 2009

### MINUTES

#### CALL TO ORDER

The Regular Meeting of the Administration and Finance Committee (A&F) was called to order at 12:10 p.m. by Vice Chairperson Gage in Room B-104, VTA River Oaks Campus, 3331 North First Street, San Jose, California.

#### 1. ROLL CALL

Attendee Name	Title	Status
Don Gage	Board Member	Present
Liz Kniss	Board Member	Absent
Chuck Reed	Board Member	Present
David Casas	Board Member	Present
Chris Moylan	Alternate Board Member	N/A
George Shirakawa	Alternate Board Member	Absent

\* Alternates do not serve unless participating as a Member.

**A quorum was not present and a Committee of the Whole was declared.**

#### 2. PUBLIC PRESENTATIONS

There were no Public Presentations.

**The Agenda was taken out of order.**

Michael T. Burns, General Manager, acknowledged and thanked Member Casas for his contributions to improve the Civil Grand Jury response.

#### REGULAR AGENDA

##### 12. Transit Funding Ballot Measure Research

Upon inquiry of Member Casas, Kurt Evans, Government Affairs Manager, clarified the resolution is intended to support research activities only. The research will: 1) help determine if a ballot measure aiming to protect state public transit funding can be pursued; and 2) if a ballot measure can be pursued, the research will help structure the ballot measure language to minimize loop holes.

**On order Vice Chairperson Gage** and there being no objection, the Committee of the Whole approved forwarding without a recommendation to the Board of Directors for consideration at the September 3, 2009 VTA Board of Directors Regular Meeting the

item to adopt a resolution endorsing the California Transit Association's research activities related to pursuing a ballot measure that would protect state public transit funding from being diverted to the General Fund.

**13. Bill Position: SB 626 (Kehoe)**

**On order Vice Chairperson Gage** and there being no objection, the Committee of the Whole approved forwarding, without a recommendation, to the Board of Directors, consideration at the September 3, 2009 VTA Board of Directors Regular Meeting the item to adopt a support position for SB 626 (Kehoe), which requires the California Public Utilities Commission (CPUC) to evaluate policies related to the development of the electrical infrastructure that is needed to support the widespread use of plug-in hybrids and electric vehicles.

**14. Amendment to VTA's Resolution for 2009 American Recovery and Reinvestment Act Transit Funds**

**On order Vice Chairperson Gage** and there being no objection, the Committee of the Whole approved forwarding, without a recommendation, to the Board of Directors, consideration at the September 3, 2009 VTA Board of Directors Regular Meeting the item to amend the resolution certifying that VTA is an eligible and responsible sponsor for the Hybrid Bus procurement replacing older model buses and authorize the General Manager to submit an amended application for 2009 American Recovery and Reinvestment Act funding of the Hybrid Bus procurement, an ADA Bus Stop enhancement project, and allowable funding for transit operations.

**15. Transportation Infrastructure Generating Recovery (TIGER) Grant Application Resolution**

Marcella Rensi, Transportation Planning Manager, explained the TIGER grant program is a federal program for transportation projects with national, statewide and regional significance. The first cycle will provide \$1.5 billion nationwide. Each state cannot receive more than \$300 million and project request must be at least \$20 million, unless there are special circumstances.

Mr. Burns reported the State of California Caltrans received project requests totaling to approximately \$2 billion. He advised Members the competition for this grant funding will be very challenging.

**On order Vice Chairperson Gage** and there being no objection, the Committee of the Whole approved forwarding, without a recommendation, to the Board of Directors, consideration at the September 3, 2009 VTA Board of Directors Regular Meeting the item to adopt a sponsoring agency resolution for Transportation Infrastructure Generating Recovery (TIGER) grant funds for VTA's joint application with Bay Area Rapid Transit (BART) for the BART Hayward Yard Reconstruction project. Authorize the General Manager to enter into any necessary agreements with BART, the State of California and/or the Federal Department of Transportation to receive these funds and implement this project.

**16. Sales Tax Auditing & Recovery RFP**

Member Casas inquired if the contingency fees (20 percent) are based on MuniServices' success and further inquired if VTA has internal capacity to do this kind of work.

Kimberly Koenig, Fiscal Resources Manager, responded fees are based on MuniServices' success and these fees are based on historical data. Ms. Koenig explained VTA staff does not have access to the same data as MuniServices has and therefore cannot find as many errors as Muniservices. MuniServices has several clients within Santa Clara County and other transportation agencies outside the County which gives them access to more data to cross check and the ability to find more errors and inconsistencies for taxpayer reporting.

Member Reed advised the Committee he would abstain on this item.

**On order Vice Chairperson Gage** and there being no objection, the Committee of the Whole approved forwarding, without a recommendation, to the Board of Directors, consideration at the September 3, 2009 VTA Board of Directors Regular Meeting the item to:

- 1) Authorize the General Manager to execute a five-year contract with MuniServices, LLC for the amount of \$84,000 for quarterly sales tax reporting services plus fees contingent on additional sales tax revenue generated from transactions and use tax (sales tax) audit services; and,
- 2) Further authorize the General Manager to extend the contract for two additional one-year terms (for a maximum contract period of seven years) for the amount of \$37,600 for quarterly sales tax reporting services plus fees contingent on additional sales tax revenue generated from transactions and use tax (sales tax) audit services; and,
- 3) Adopt a resolution for the State Board of Equalization that authorizes MuniServices LLC to examine sales and use tax records.

**CONSENT AGENDA**

**4. Minutes of May 21, 2009**

M/S/C Reed/Casas to approve the Minutes of May 21, 2009.

**5. Board of Directors Committee of the Whole (COW) Meeting Minutes of July 16, 2009**

M/S/C Reed/Casas to receive and file the Board of Directors Committee of the Whole (COW) Meeting Minutes of July 16, 2009.

**6. Monthly Investment Report - June 2009**

M/S/C Reed/Casas to review the Monthly Investment Report - June 2009.

**NOTE:** M/S/C MEANS MOTION SECONDED AND CARRIED AND, UNLESS OTHERWISE INDICATED, THE MOTION PASSED UNANIMOUSLY.

7. **Fourth Quarter and FY 2009 Year-End Report of Public Liability/Property Damage Claims Activity**

M/S/C Reed/Casas to review the 2009 Quarterly Public Liability/Property Damage Claims Activity Report.

8. **Fourth Quarter and FY 2009 Year-End Report of Workers' Compensation Claims and Transitional Work Program**

M/S/C Reed/Casas to review Quarterly Workers' Compensation and Transitional Work Program Claims report.

9. **Quarterly Purchasing Report**

M/S/C Reed/Casas to review the Quarterly Purchasing Report.

10. **Monthly Legislative History Matrix**

M/S/C Reed/Casas to review the Monthly Legislative History Matrix.

11. **Civil Grand Jury Response**

M/S/C Reed/Casas to receive the revised Civil Grand Jury response.

3. **ORDERS OF THE DAY**

Vice Chairperson Gage noted staff's request to a Closed Session for Negotiations to the agenda. The closed session item is:

Conference with Labor Negotiators  
[Government Code Section 54957.6]  
VTA Designated Representatives:  
Joseph Smith, Chief Financial Officer  
Bill Lopez, Chief Administrative Officer  
Robert L. Escobar, Human Resources Manager

Employee Organizations:  
Amalgamated Transit Union (ATU), Local 265

M/S/C (Reed/Casas) to add Closed Session for labor negotiations to the agenda.

## **REGULAR AGENDA** (continued)

### **17. VTA Governance**

Member Casas noted the North County Cities Group expects to finalize the methodology and process for selecting its VTA Board of Directors representative by November 2009. He stated Chris Moylan will lead this process since Yoriko Kishimoto is running for State Assembly.

Robert Livengood, Mayor, City of Milpitas, noted the following: 1) The City of Milpitas does not want to remain in the current Group 4 with the Cities of Morgan Hill and Gilroy; and 2) The City of Milpitas wants to be in a different City Grouping with the Cities of Santa Clara and Sunnyvale.

Mayor Livengood noted there is no logical reason for Milpitas to stay in Group 4 because there are no similarities amongst the three cities. Moreover, if Milpitas stays in the same group as Morgan Hill and Gilroy, it will lose its opportunity to a seat on the VTA Board because Morgan Hill and Gilroy expressly stated both regular and alternate seats will rotate to their cities. It poses a huge problem since Milpitas will experience most of the impacts of the BART Extension project in Santa Clara County.

Mayor Livengood explained the proposal to group Milpitas with the Cities of Santa Clara and Sunnyvale is not perfect; however, all three cities have direct connections and similar transportation issues. He noted all three cities have elements of light rail, county expressways, and all three are connected by SR 237. Although this proposal also results in over-representation of South County based on population formula, Mayor Livengood stated the South County should have a seat in the VTA Board of Directors because it is very distinct, diverse, and has different transportation issues from the rest of Santa Clara County.

Member Livengood noted the City of Milpitas would like to resolve the VTA Governance issue prior to making big decisions for transportation projects such as BART. He urged for a quick resolution as delays to the BART project will cost a significant amount of money.

Member Casas stated the City of Sunnyvale voted against the proposal to group with the Cities of Milpitas and Santa Clara. He cautioned regrouping of cities as it may disrupt other city groups that are working successfully together. He noted the Board of Directors and the City of San Jose may be able to mediate the challenges Group 4 is facing by entering the discussion on how it can be resolved.

Vice Chairperson Gage recognized the governance problems of Group 4 for the past 15 years. The three cities have tried to work together but find it difficult since there are no common issues among them. Vice Chairperson Gage noted like Milpitas, South County has several huge transportation projects such as the SR 152 and US 101 realignment and High Speed Rail. Furthermore, South County has the fastest growing population per capita in Santa Clara County.

Jim Lawson, Senior Policy Advisor, clarified the VTA Board of Directors cannot get involved in the relationship between the small city groups. Kevin Allmand, General Counsel, noted the Joint Powers Agreement (JPA) in 1994 clearly states it is each city grouping's responsibility to select their representative to the VTA Board. Mr. Lawson clarified that an amendment to the JPA will require the vote of the VTA Board of Directors, Santa Clara County Board of Supervisors, and majority of the cities with a majority of the population.

Members Reed and Casas supported an idea of passing a resolution of the VTA Board of Directors which will encourage Group 4 to cooperate and provide the opportunity for the City of Milpitas to rotate for a seat in the VTA Board of Directors. Vice Chairperson Gage noted the Board can also ask the City of Sunnyvale to reconsider re-grouping with Santa Clara and Milpitas.

At Mr. Burns' suggestion, the Committee agreed to the following: 1) provide Administration and Finance Committee and Mayor Livengood's sentiments to Group 4; 2) encourage the group to come to an agreement; and 3) report back to the A&F Committee in September 2009. Vice Chairperson Gage requested the same be provided to the City of Sunnyvale as well as they need to be part of the Governance discussion.

Member Casas requested the item to come back to the October 2009 Administration and Finance Committee meeting as he cannot attend the September A&F meeting due to a schedule conflict. On general consensus, the Governance issue will be discussed at the October 2009 A&F meeting and subsequently to the VTA Board in November 2009.

#### **18. VTA Transformation Program Progress Report**

Mr. Burns provided a brief report highlighting the progress made on the Transformation Program. He briefly discussed the results for each of the following focus areas: Governance, Organizational Structure, and Financial Management.

**On order of Vice Chairperson Gage** and there being no objection, the update on the VTA Transformation Program Progress was received.

### **OTHER ITEMS**

#### **19. Items of Concern and Referral to Administration**

Member Casas requested the Governance item to come back to the October 2009 A&F meeting as he cannot attend the September A&F meeting due to a schedule conflict. On general consensus, the Governance issue will be discussed at the October 2009 Administration and Finance Committee meeting and subsequently to the VTA Board in November 2009.

Vice Chairperson Gage requested sending the summary of today's Governance discussion to Sunnyvale in addition to Group 4.

20. **Committee Work Plan**

**On order of Vice Chairperson Gage** and there being no objection, the Committee reviewed the Committee Work Plan.

21. **Committee Staff Report**

Joseph Smith, Chief Financial Officer, reported VTA received the Certificate of Achievement for Excellence in Financial Reporting Program from the Government Finance Officers Association for the 13<sup>th</sup> Consecutive Year for the work it has done for the Comprehensive Annual Financial Report (CAFR). Mr. Smith congratulated Ali Hudda, Tony Sandhu, and their team for a job well done.

22. **Chairperson's Report**

There was no Chairperson's Report.

23. **Consent Agenda for the September 3, 2009 Board Meeting**

**CONSENT: Agenda Item #12**, Recommend the Board of Directors adopt a resolution endorsing the California Transit Association's research activities related to pursuing a ballot measure that would protect state public transit funding from being diverted to the General Fund.

**Agenda Item #13**, Recommend the Board of Directors adopt a support position for SB 626 (Kehoe), which requires the California Public Utilities Commission (CPUC) to evaluate policies related to the development of the electrical infrastructure that is needed to support the widespread use of plug-in hybrids and electric vehicles.

**Agenda Item #14**, Amend the resolution certifying that VTA is an eligible and responsible sponsor for the Hybrid Bus procurement replacing older model buses and authorize the General Manager to submit an amended application for 2009 American Recovery and Reinvestment Act funding of the Hybrid Bus procurement, an ADA Bus Stop enhancement project, and allowable funding for transit operations.

**Agenda Item #15**, Adopt a sponsoring agency resolution for Transportation Infrastructure Generating Recovery (TIGER) grant funds for VTA's joint application with Bay Area Rapid Transit (BART) for the BART Hayward Yard Reconstruction project. Authorize the General Manager to enter into any necessary agreements with BART, the State of California and/or the Federal Department of Transportation to receive these funds and implement this project.

**Agenda Item #18**, Update on the VTA Transformation Program Progress.

**REGULAR: Agenda Item #16**, Sales Tax Auditing & Recovery Request for Proposal (RFP) 1) Authorize the General Manager to execute a five-year contract with MuniServices, LLC for the amount of \$84,000 for quarterly sales tax reporting services plus fees contingent on additional sales tax revenue generated from transactions and use tax (sales tax) audit services; and, 2) Further authorize the General Manager to extend the contract for two additional one-year terms (for a maximum contract period of seven

years) for the amount of \$37,600 for quarterly sales tax reporting services plus fees contingent on additional sales tax revenue generated from transactions and use tax (sales tax) audit services; and, 3) Adopt a resolution for the State Board of Equalization that authorizes MuniServices LLC to examine sales and use tax records.

**23.X RECESSED TO CLOSED SESSION at 1:11 p.m.**

Conference with Labor Negotiators  
[Government Code Section 54957.6]  
VTA Designated Representatives:  
Joseph Smith, Chief Financial Officer  
Bill Lopez, Chief Administrative Officer  
Robert L. Escobar, Human Resources Manager

Employee Organizations:  
Amalgamated Transit Union (ATU), Local 265

**RECONVENED TO OPEN SESSION at 1:16 p.m.**

**CLOSED SESSION REPORT**

A. Conference with Labor Negotiators  
[Government Code Section 54957.6]

VTA Designated Representatives:  
Joseph Smith, Chief Financial Officer  
Bill Lopez, Chief Administrative Officer  
Robert L. Escobar, Human Resources Manager

Employee Organizations:  
American Federation of State, County and Municipal Employees (AFSCME)  
Amalgamated Transit Union (ATU), Local 265  
Service Employees International Union, (SEIU), Local 521  
Transportation Authority Engineers and Architects Association (TAEA), Local 21

There was no reportable action taken during Closed Session.

**24. ANNOUNCEMENTS**

Member Reed announced he will be in Washington, D.C. on September 23, 2009 to lobby for BART Funding. Mr. Burns added Kurt Evans, Sam Liccardo, and himself are going to the Washington, D.C. as well.

**25. ADJOURNMENT**

**On order of Vice Chairperson Gage** and there being no objection, the meeting was adjourned at 1:17 p.m.

Respectfully submitted,

Elaine F. Baltao, Board Assistant  
VTA Office of the Board Secretary